

AMENDED IN ASSEMBLY JUNE 7, 2004

AMENDED IN ASSEMBLY AUGUST 25, 2003

AMENDED IN SENATE APRIL 21, 2003

AMENDED IN SENATE FEBRUARY 18, 2003

**SENATE BILL**

**No. 9**

**Introduced by Senators McClintock and Perata**

**(Coauthors: ~~Senators Aanestad, Ackerman, Ashburn, Battin, Brulte, Denham, Ducheny, Hollingsworth, Johnson, Knight, Margett, McPherson, Morrow, Oller, Poochigian, Romero, Scott, Soto, and Speier~~)**

**(Coauthors: ~~Assembly Members Aghazarian, Bates, Benoit, Bogh, Campbell, Cogdill, Cox, Dutton, Garcia, Harman, Haynes, Keene, Kehoe, Koretz, La Malfa, La Suer, Leslie, Maddox, Maldonado, Maze, Nakanishi, Pacheco, Plesecia, Runner, Salinas, Spitzer, Strickland, and Wyland~~)**

December 2, 2002

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~~An act to add and repeal Chapter 8.2 (commencing with Section 11820) of Part 1 of Division 3 of Title 2 of the Government Code, relating to government reorganization, and making an appropriation therefor. An act to amend Section 20405.1 of, and to repeal Section 19816.21 of, the Government Code, relating to state employees' retirement, and declaring the urgency thereof, to take effect immediately.~~

## LEGISLATIVE COUNSEL'S DIGEST

SB 9, as amended, McClintock. ~~Government reorganization: realignment or closure~~ State employees' retirement: state safety membership.

*The Public Employees' Retirement Law establishes various membership classifications, and levels of benefits, for state employees, including the state miscellaneous and state safety member classifications. Existing law provides that, on July 1, 2004, state employees in State Bargaining Unit 7 (Protective Services and Public Services), employees in related managerial, supervisory, and confidential positions, and specified employees of the executive branch are to be reclassified from the state miscellaneous member classification to the state safety member classification.*

*This bill would repeal that provision.*

*The bill would declare that it is to take effect immediately as an urgency statute.*

~~The State Government Strategic Planning and Performance and Review Act requires each state agency, department, office, and commission for which strategic planning efforts are recommended to develop a strategic plan, as specified, that identifies, among other things, the steps being taken to develop performance measures to implement a performance budgeting system or a performance review. The act also requires that these entities report to the Governor and the Joint Legislative Budget Committee by April 1 of each year on the steps being taken to develop and adopt a strategic plan.~~

~~Existing law sets forth specified procedures for the preparation, submission, and implementation of the Governor's reorganization plans.~~

~~This bill would enact the Bureaucracy Realignment and Closure Act of 2004. It would establish the Bureaucracy Realignment and Closure Commission in state government with a specified membership. Beginning on January 1, 2004, the Controller, the Director of Finance, the Legislative Analyst, the Legislative Counsel, the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, and the State Auditor would be required to develop recommendations for the closure or realignment of state bureaucracies for consideration by the commission. It would require the commission to independently evaluate the recommendations, conduct 3 public hearings, and, by January 1, 2005, have at least one member~~

~~of the commission visit each state bureauacy considered for realignment or closure.~~

~~This bill would require the commission, not later than July 15, 2005, to submit a report of its final recommendations to the Governor and the Legislature that establishes a list of state bureauacies that are proposed to be realigned or abolished. It would require the Governor, upon approval of the list of recommendations, to prepare the list as a reorganization plan and to submit the plan to the Legislature under the provisions relating to the Governor's reorganization plans, except that the Legislature would be authorized to reject the plan upon a majority vote of the membership of either house thereof.~~

~~This bill would appropriate \$250,000 from the General Fund to the commission to defray costs incurred during its first year of operation.~~

~~The bill would provide that it shall become inoperative on July 1, 2006, and, as of January 1, 2007, would be repealed.~~

Vote:  $\frac{2}{3}$ . Appropriation: yes no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1.—Chapter 8.2 (commencing with Section 11820)~~

2 ~~SECTION 1. Section 19816.21 of the Government Code is~~  
3 ~~repealed.~~

4 ~~19816.21. (a) Notwithstanding Sections 18717 and~~  
5 ~~19816.20, effective July 1, 2004, the following officers and~~  
6 ~~employees, who are in the following classifications or positions on~~  
7 ~~or after July 1, 2004, shall be state safety members of the Public~~  
8 ~~Employees' Retirement System:~~

9 ~~(1) State employees in State Bargaining Unit 7 (Protective~~  
10 ~~Services and Public Services) whose job classifications are subject~~  
11 ~~to state miscellaneous membership in the Public Employees'~~  
12 ~~Retirement System, unless otherwise excluded by a memorandum~~  
13 ~~of understanding.~~

14 ~~(2) State employees in managerial, supervisory, or confidential~~  
15 ~~positions that are related to the job classifications described in~~  
16 ~~paragraph (1) and that are subject to state miscellaneous~~  
17 ~~membership in the Public Employees' Retirement System,~~  
18 ~~provided that the Department of Personnel Administration has~~  
19 ~~approved their inclusion.~~

~~(3) Officers and employees of the executive branch of state government who are not members of the civil service and who are in positions that are related to the job classifications described in paragraph (1) and that are subject to state miscellaneous membership in the Public Employees' Retirement System, provided that the Department of Personnel Administration has approved their inclusion.~~

~~(b) The department shall notify the Public Employees' Retirement System of the classes or positions that become subject to state safety membership under this section, as prescribed in Section 20405.1.~~

*SEC. 2. Section 20405.1 of the Government Code is amended to read:*

20405.1. Notwithstanding Section 20405, this section shall apply to state employees in state bargaining units that have agreed to these provisions in a memorandum of understanding between the state employer and the recognized employee organization, as defined in Section 3513, state employees who are excluded from the definition of "state employee" by subdivision (c) of Section 3513, and officers or employees of the executive branch of state government who are not members of the civil service.

(a) On and after the effective date of this section, state safety members shall also include officers and employees whose classifications or positions are found to meet the state safety criteria prescribed in Section 19816.20, provided the Department of Personnel Administration agrees to their inclusion, ~~and officers and employees whose classifications or positions have been designated as subject to state safety membership pursuant to Section 19816.21.~~ For employees covered by a collective bargaining agreement, the effective date of safety membership shall be the date on which the department and the employees' exclusive representative reach agreement by memorandum of understanding pursuant to Section 3517.5 or any later date specified in the memorandum of understanding. For employees not covered by a collective bargaining agreement, the Department of Personnel Administration shall determine the effective date of safety membership.

(b) The department shall notify the board as new classes or positions become eligible for state safety membership, as specified

1 in subdivision (a), and specify how service prior to the effective  
2 date shall be credited.

3 (c) The department shall prepare and submit to the Legislature  
4 an annual report that contains the classes or positions that are  
5 eligible for state safety membership under this section.

6 (d) Any person designated as a state safety member pursuant to  
7 this section may elect, within 90 days of notification by the board,  
8 to remain subject to the miscellaneous or industrial service  
9 retirement benefit and contribution rate by filing an irrevocable  
10 election with the board. A member who so elects shall be subject  
11 to the reduced benefit factors specified in Section 21076, 21353,  
12 or 21354.1, as applicable, only for service also included in the  
13 federal system.

14 *SEC. 3. This act is an urgency statute necessary for the*  
15 *immediate preservation of the public peace, health, or safety*  
16 *within the meaning of Article IV of the Constitution and shall go*  
17 *into immediate effect. The facts constituting the necessity are:*

18 *In order for the provisions of this act to be applicable as soon*  
19 *as possible in the 2003–04 fiscal year, and thereby facilitate the*  
20 *orderly administration of state government at the earliest possible*  
21 *time, it is necessary that this act take effect immediately.*

22 ~~is added to Part 1 of Division 3 of Title 2 of the Government Code,~~  
23 ~~to read:~~

24  
25 ~~CHAPTER 8.2.— BUREAUCRACY REALIGNMENT AND CLOSURE ACT~~  
26 ~~OF 2004~~  
27

28 ~~11820.— It is the intent of the Legislature that this chapter~~  
29 ~~ensure that a timely, independent, and fair process for realigning~~  
30 ~~or closing outdated or ineffective and inefficient governmental~~  
31 ~~agencies, bureaucracies, boards, and commissions is initiated.~~

32 ~~11821.— This chapter shall be known, and may be cited, as the~~  
33 ~~Bureaucracy Realignment and Closure Act of 2004.~~

34 ~~11822.— For the purposes of this chapter, the following~~  
35 ~~definitions shall apply:~~

36 (a) ~~“Commission” means the Bureaucracy Realignment and~~  
37 ~~Closure Commission established pursuant to Section 11823.~~

38 (b) ~~“State bureaucracy” means every state agency, office,~~  
39 ~~officer, department, division, bureau, board, or commission.~~  
40 ~~Notwithstanding subdivision (a) of Section 11000, “state~~

1 ~~bureaucracy” and “state agency” include the California State~~  
2 ~~University.~~

3 ~~11823. (a) The Bureaucracy Realignment and Closure~~  
4 ~~Commission is hereby established in state government. By April~~  
5 ~~1, 2004, the Governor shall appoint the members of the~~  
6 ~~commission, as follows:~~

7 ~~(1) One member who shall be appointed upon consultation~~  
8 ~~with the Speaker of the Assembly.~~

9 ~~(2) One member who shall be appointed upon consultation~~  
10 ~~with the minority leader of the Assembly.~~

11 ~~(3) One member who shall be appointed upon consultation~~  
12 ~~with the President pro Tempore of the Senate.~~

13 ~~(4) One member who shall be appointed upon consultation~~  
14 ~~with the minority leader of the Senate.~~

15 ~~(5) Four members, at the Governor’s discretion, subject to~~  
16 ~~confirmation by the Senate.~~

17 ~~(b) (1) Each member of the commission shall have had~~  
18 ~~management experience prior to his or her appointment to the~~  
19 ~~commission.~~

20 ~~(2) For purposes of this subdivision, “management~~  
21 ~~experience” means at least a master’s degree or its equivalent, or~~  
22 ~~equivalent experience, in the field of business management or~~  
23 ~~public administration.~~

24 ~~(c) The Governor shall designate one of the members to be~~  
25 ~~chairperson of the commission.~~

26 ~~(d) Each member of the commission shall be a United States~~  
27 ~~citizen and a resident of this state.~~

28 ~~(e) The commission may employ, pursuant to laws and~~  
29 ~~regulations governing state civil service, an executive secretary~~  
30 ~~and any clerical, professional, and technical assistants it deems~~  
31 ~~necessary.~~

32 ~~11824. No member appointed to the commission shall be any~~  
33 ~~of the following:~~

34 ~~(a) A party to an ongoing contract with a federal, local, or state~~  
35 ~~governmental agency.~~

36 ~~(b) Employed by an entity that is a party to an ongoing contract~~  
37 ~~with a federal, local, or state governmental agency.~~

38 ~~(c) Employed by a federal, local, or state governmental agency.~~

1 ~~(d) A person who, at the time of his or her appointment or~~  
2 ~~during his or her term of service, qualifies as a lobbyist, as~~  
3 ~~specified in Section 82039.~~

4 ~~11825. Each member of the commission shall be appointed~~  
5 ~~for a term of two years and may be reappointed for a second term~~  
6 ~~of two years. A person may not serve more than four years total~~  
7 ~~time on the commission.~~

8 ~~11826. Each member of the commission shall serve without~~  
9 ~~compensation, but shall receive the daily equivalent of the average~~  
10 ~~salary paid to deputy directors of agencies listed in Section 11550~~  
11 ~~for each day while on official business of the commission. The~~  
12 ~~chairperson of the commission shall also serve without~~  
13 ~~compensation, but shall receive the daily equivalent of the salary~~  
14 ~~received by an agency head pursuant to Section 11550 for each day~~  
15 ~~while on official business of the commission. In addition, each~~  
16 ~~member shall also be entitled to receive necessary expenses~~  
17 ~~actually incurred in the performance of his or her duties.~~

18 ~~11827. The commission shall do all of the following:~~

19 ~~(a) Examine state bureaucracies in this state primarily to~~  
20 ~~determine if the jurisdictions of various agencies overlap, or if an~~  
21 ~~agency's mission has become obsolete.~~

22 ~~(b) Submit a report to the Governor and the Legislature that sets~~  
23 ~~forth findings that recommend needed reforms and establishes a~~  
24 ~~list of state bureaucracies to be realigned or abolished.~~

25 ~~(c) Propose realignment and closure of state bureaucracies~~  
26 ~~within this state in order to reduce duplication of services, increase~~  
27 ~~productivity, and reestablish the proper role of government.~~

28 ~~(d) Examine the current configuration of state bureaucracies~~  
29 ~~and investigate their duties and responsibilities.~~

30 ~~11828. The commission may do any of the following:~~

31 ~~(a) Meet at times and places that it may deem proper.~~

32 ~~(b) Issue subpoenas to compel the attendance of witnesses and~~  
33 ~~the production of books, records, papers, accounts, reports, and~~  
34 ~~documents.~~

35 ~~(c) Administer oaths.~~

36 ~~(d) Contract, as it deems necessary, for the rendition of~~  
37 ~~services, facilities, studies, and reports that will best assist the~~  
38 ~~commission in carrying out its duties and responsibilities.~~

39 ~~11829. Beginning on January 1, 2004, the Controller, the~~  
40 ~~Director of Finance, the Legislative Analyst, the Legislative~~

~~Counsel, the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, and the State Auditor shall develop recommendations for the closure or realignment of state bureaucracies for consideration by the commission. These recommendations shall be reported to the commission by July 15, 2004.~~

~~11830. Upon receiving the recommendations reported under Section 11829, the commission shall independently evaluate these reports. In addition, the commission may add other state bureaucracies to study for realignment or closure, which may include proposals submitted by residents outside of state government.~~

~~11831. (a) By January 1, 2005, at least one member of the commission shall have visited each state bureaucracy considered for realignment or closure. In addition, as part of its review process, the commission shall conduct three public hearings in the state with the final hearing occurring on or before March 15, 2005, at Sacramento. The final hearing shall include testimony from the Legislature, other expert witnesses, and the agencies specified in Section 11829.~~

~~(b) Upon completion of its evaluation and not later than July 15, 2005, the commission shall submit its final recommendations to the Governor and the Legislature and transmit a copy of these recommendations to the Director of Finance who shall prepare and issue a public report that displays the forecasted savings in state expenditures that would result from these recommendations.~~

~~(c) By August 15, 2005, the Governor shall act on the commission’s recommendations. The Governor may approve the recommendations or return the recommendations to the commission for revision. If the Governor returns the recommendations, the commission has one month to revise and transmit to the Governor and the Director of Finance an updated list. The commission is not required to incorporate recommendations of the Governor in its list. The director shall prepare a revised public forecast from this list. If the Governor rejects the revised list, that action ends the realignment and closure process for the year without action. However, the commission may submit a revised list in the following year after consideration and at least one public hearing.~~



~~11832. (a) If the Governor approves the list as submitted by the commission pursuant to subdivision (c) of Section 11831, the Governor shall prepare the list, without alteration or amendment, as a reorganization plan and submit the plan to the Legislature pursuant to Article 7.5 (commencing with Section 12080) of Chapter 1 of Part 2. Upon being transmitted to the Legislature, the plan shall be considered and subject to all applicable provisions of that article, except as specified in subdivision (b). To that end, it is the intent of the Legislature that this chapter be deemed a part of the statutory authority for the Governor to reorganize executive officers and agencies, as specified in Section 6 of Article V of the California Constitution.~~

~~(b) The plan shall become effective the first day after 60 calendar days of continuous session of the Legislature after the date on which the plan is transmitted to each house or at a later date as may be provided by the plan, unless, prior to the end of the 60-calendar-day period, either house of the Legislature adopts, by a majority vote of the duly elected and qualified members thereof, a resolution as specified in subdivision (c) of Section 12080.~~

~~(c) The plan shall specify that the state bureaucracies recommended for closure or realignment be closed or realigned beginning one year after the effective date of the plan and completed within three years of the effective date.~~

~~11833. Upon the reorganization plan becoming effective, the Director of Finance shall compute the savings in state governmental expenses that are forecast to occur due to the closure or realignment of the state bureaucracies included in the plan and transmit this information to the Governor and the Legislature. It is the intent of the Legislature that these savings be reflected in reduced taxation or state expenditures.~~

~~11834. This chapter shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 2. (a) The sum of two hundred fifty thousand dollars (\$250,000) is hereby appropriated from the General Fund to the Bureaucracy Realignment and Closure Commission created pursuant to Chapter 8.2 (commencing with Section 11820) of Part 1 of Division 3 of Title 2 of the Government Code, as added by~~

- 1 ~~Section 1 of this act, in order to defray costs incurred by the~~  
2 ~~commission during the first year of operation.~~  
3 ~~(b) The Bureaucracy Realignment and Closure Commission~~  
4 ~~may not expend more than five hundred thousand dollars~~  
5 ~~(\$500,000) in carrying out its duties.~~

